

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

GREGORY D. ROSE)	CASE NO. 1:09CV2084
)	
PETITIONER,)	JUDGE SARA LIOI
)	
vs.)	
)	ORDER
)	
)	
BENNIE KELLY, Warden,)	
)	
)	
RESPONDENT.)	

On September 9, 2009, petitioner Gregory Rose (petitioner) filed a Writ of *Habeas Corpus* pursuant to 28 U.S.C. § 2254 (Docket No. 1). The case was referred to Magistrate Judge George Limbert pursuant to Local Rule 72. On July 2, 2010 the Magistrate Judge recommended that petitioner's application for *habeas corpus* be dismissed in its entirety without prejudice, unless petitioner elected to waive his unexhausted claim of ineffective assistance of appellate counsel and proceed with his exhausted claims (the balance of Ground One, Ground Two, Ground Three, and Ground Four). (Docket No. 11).

Federal Rules of Civil Procedure 72(b)(2) provides that objections to a report and recommendation must be filed within fourteen (14) days after service. Petitioner has failed to timely file any such objections. Therefore, the Court must assume that petitioner is satisfied with the Magistrate Judge's recommendation. Any further review by this Court would be a duplicative and inefficient use of the Court's limited

resources. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985); *Howard v. Secretary of Health and Human Services*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

Therefore, Magistrate Judge Limbert's report and recommendation is hereby **ADOPTED**. Respondent's motion to dismiss (Doc. No. 4) is **GRANTED**, in part. Petitioner shall have until August 9, 2010 to indicate in writing that he is willing to waive his unexhausted claim of ineffective assistance, otherwise the Court will dismiss his petition without prejudice.

IT IS SO ORDERED.

Dated: July 23, 2010



HONORABLE SARA LIOI
UNITED STATES DISTRICT JUDGE